

DOWD, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Marjorie J. Lebo,

Plaintiff,

v.

Impac Funding Corp., et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)
)
)

CASE NO.: 5:11 CV 1857

MEMORANDUM OPINION

This case was referred to Magistrate Judge Burke for general pre-trial supervision on September 20, 2011. Pending before the Court at that time were motions filed by defendants Deutsche Bank National Trust Company and Impac Funding Corporation to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim. *See* ECF 5 and 6, respectively. Plaintiff opposed both motions (*See* ECF 9 and 10) and defendants replied (*See* ECF 17 and 18).

Magistrate Judge Burke issued a Report and Recommendation regarding Impac's and Deutsche Bank's motions to dismiss on February 8, 2012, recommending that the Court deny Impac's motion to dismiss and grant Deutsche Bank's motion to dismiss. ECF 23. No objections have been filed to the Report and Recommendation.

(5:11 CV 1857)

Under the relevant statute:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C).

The Magistrate Judge's Report and Recommendation was filed on February 8, 2012.

The fourteen day period has elapsed and no objections have been filed.

The failure to file written objections to a Magistrate Judge's Report and Recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's Report and Recommendation and adopts the same.

Accordingly, defendant Impac's motion to dismiss Counts I and II of plaintiff's complaint for failure to state a claim pursuant to Rule 12(b)(6) is DENIED.

Further, defendant Deutsche Bank's motion to dismiss Count III of plaintiff's complaint as to Deutsche Bank for failure to state a claim pursuant to Rule 12(b)(6) is GRANTED.¹

¹ The Court notes that Count III of plaintiff's complaint asserts a claim against defendant Deutsche Bank and defendant HomeEq. Count III of plaintiff's complaint as to defendant HomeEq remains pending.

(5:11 CV 1857)

The Court will separately publish a Judgment Entry.

IT IS SO ORDERED.

February 27, 2012
Date

s/ David D. Dowd, Jr.
David D. Dowd, Jr.
U.S. District Judge